

available for all existing public television stations and all vacant reserved NTSC allotments.

VI. The Commission Must Afford Noncommercial Applicants Some Opportunity To Apply For Both A Vacant NTSC Allotment And The ATV Channel With Which It Is Paired.

In its Second Report, the Commission stated, in explaining its proposal to allot ATV channels for vacant NTSC reservations, that the "pairing [of ATV channels with vacant noncommercial NTSC allotments] permits noncommercial applicants to continue applying for NTSC/ATV pairs until the point that initial ATV assignments are completed." See Second Report, ¶ 51. However, recent Commission rulings in this proceedings, when read together, appear to preclude applicants for currently vacant NTSC noncommercial allotments from applying for an associated ATV channel if their NTSC applications were filed after October 24, 1991.^{22/}

Under the Commission's proposed procedures, noncommercial educational entities can apply for vacant reserved NTSC channels during the initial filing window for ATV channels. Such an applicant would not be eligible, however, to apply for an ATV channel during that window because it would not qualify as an

^{22/} The Commission has established October 24, 1991, as the cut-off date for "existing broadcasters." Applicants that file for NTSC channels after that date are not eligible to apply for ATV channels during the initial filing window.

"existing broadcaster."^{23/} Rather, these applicants would be required to apply for an ATV channel after that window closes, and thus face the risk of a competing application.^{24/} Such a result is inconsistent with the Commission's statement in the Second Report.

Moreover, the result makes little sense since the Commission is proposing to reserve ATV channels for vacant NTSC reserved allotments. See Second Report, ¶ 37. Thus, ATV channels would effectively be paired with the NTSC channels, yet the noncommercial licensee operating on the NTSC channel could not obtain the ATV channel without facing the risk that a competing application might be filed.

As the Commission seemed to recognize in the Second Report, there should be some period during which a noncommercial applicant can apply for both a vacant NTSC allotment and its associated or paired ATV channel. Since the Commission intends to delete vacant reserved NTSC channels at the end of the initial

^{23/} The Commission has limited initial eligibility for ATV channels to (1) full service television broadcast station licensees; (2) holders of construction permits granted on or prior to October 24, 1991; and (3) all parties with applications for a construction permit on file as of October 24, 1991, who are ultimately awarded full service television broadcast licenses. Second Report, ¶¶ 8-9.

^{24/} The Commission has also decided that it will cease issuing new NTSC licenses, including noncommercial NTSC licenses, at the end of the initial filing window. See Second Report, ¶ 51. Thus, while a noncommercial applicant would be able to apply for any reserved noncommercial ATV channels that remain after the initial filing window closes, it would not then be able to apply for the reserved NTSC channel since the Commission intends to delete those channels.

ATV filing window, Public Television believes that a noncommercial applicant should have an opportunity to apply for the vacant reserved channel pairs during that filing window.^{25/} If vacant noncommercial NTSC allotments are paired with reserved ATV channels in the Final Table of Allotments, the Commission could easily permit noncommercial applicants to apply for those channel pairs during the initial filing window, even if those applicants do not qualify as "existing broadcasters." If the Commission adopts its proposed first-come, first-served assignment procedure, it could identify those communities in which it has allotted a channel or channels for vacant NTSC reserved allotments. Noncommercial applicants could then be permitted to file applications for NTSC and ATV channels in those markets, and their applications could be given a secondary priority to all ATV applications filed by existing broadcasters in the market.

VII. Public Television Supports The Commission's Proposal To Avoid Utilization Of Channel 6 For ATV.

Public Television supports the Commission's decision to avoid using Channel 6 for ATV unless there is no other readily available allotment that would meet the minimum spacing requirements established by the Commission. See Second Further Notice, ¶ 45. As the Commission observes, use of Channel 6 may

^{25/} Noncommercial applicants which file for a NTSC authorization after October 24, 1991 and before the initial ATV filing window is opened should be treated in the same manner.

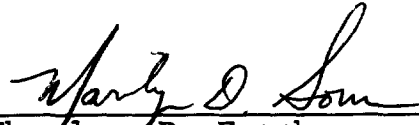
create interference to FM radio service on FM Channel 253 and Channel 6 would face interference from radio service on noncommercial educational FM Channels 201-220. To the extent possible, the Commission should continue to protect against interference between Channel 6 and FM radio transmissions.

Conclusion

For the foregoing reasons, the Commission should (i) adopt as one of its allotment objectives the preservation of spectrum for noncommercial use; (ii) utilize both the VHF and UHF bands if that is necessary to accommodate all existing broadcasters and to pair ATV channels with vacant reserved NTSC allotments; (iii) accompany its site specific allotment approach with a compatible assignment procedure; (iv) preserve short-spaced ATV allotments until ATV channels are reserved for all existing noncommercial educational licensees and permittees and all vacant noncommercial educational allotments, except in the very limited circumstances enumerated in the Second Report; (v) afford noncommercial

applicants an opportunity to apply for vacant paired NTSC and ATV channels; and (vi) avoid allotting TV Channel 6 for ATV service.

Respectfully submitted,



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Exhibit A

NTSC Reserved Channels That Would Have To Be Deleted
Because They Are Co-Channel To ATV Channels
Allotted To Same Community Of License In Sample Table

<u>State</u>	<u>Community of License</u>	<u>NTSC Reserved Channel</u>	<u>ATV Channel in Sample Table</u>
Georgia	Columbus	48	48
Minnesota	Alexandria	24	24
	Mankato	26	26
Mississippi	Hattiesburg	47	47
Missouri	St. Louis	40	40
New Mexico	Farmington	15	15
New York	Rochester	61	61
North Carolina	Raleigh	34	34
Texas	Laredo	39	39
	San Angelo	21	21
Washington	Seattle	62	62

Exhibit B

Declaration of David Sillman

1. My name is David Sillman. I am Director of Interconnection Engineering at the Public Broadcasting Service.

2. I have reviewed the channel allotments in the sample ATV Table of Allotments attached as Appendix D to the Commission's Second Further Notice of Proposed Rulemaking released August 14, 1992, for the eleven states listed in Table 1 attached hereto. Based on my review, I have concluded that it is likely that 36 of the 48 vacant NTSC channels currently reserved for noncommercial educational use in those states would have to be deleted if the sample Table were adopted. Each of those 36 vacant reserved NTSC allotments is short-spaced to a co-channel ATV allotment in the sample Table. In my opinion, NTSC and ATV stations operating on the co-channels specified in Table 1 at the distances specified in Table 1 would experience objectionable interference.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 16, 1992



David Sillman

TABLE 1
VACANT NTSC CHANNELS-NORTHEASTERN STATES
 (Source: FCC Technical Supplement)

ST	COMMUNITY	CH	CLOSE SP'D ATV-COCH'L MILEAGE
DE	DOVER	34	PHILADELPHIA, PA 63 MILES
MA	NEW BEDFORD	34	NEW BRITAIN, CT 98 MILES
	NORTH ADAMS	35	HARTFORD, CT 66 MILES
MD	WALDORF	58	NONE
ME	FORT KENT	46	NONE
	FRYEBURG	18	MERRIMACK, NH 76 MILES
	HOULTON	25	NONE
	KITTERY	39	BOSTON, MA 60 MILES
	MILLINOCKET	44	NONE
	RUMFORD	43	LITTLETON, NH 60 MILES
NH	HANOVER	15	BURLINGTON, VT 62 MILES
NJ	ATLANTIC CITY	36	PHILADELPHIA, PA 64 MILES
NY	ALBANY-SCHENECTADY	29	HARTFORD, CT 74 MILES
	AMSTERDAM	39	RUTLAND, VT 74 MILES
	CORNING	30	SYRACUSE, NY 74 MILES
	GLENS FALLS	58	PLATTSBURGH, NY 96 MILES
	ITHACA	65	SCRANTON, PA 80 MILES
	LAKE PLACID	34	NONE
	ROCHESTER	61	ROCHESTER, NY 0 MILES
	UTICA	59	ONEONTA, NY 48 MILES
PA	ALTOONA	57	PITTSBURG, PA 82 MILES
	JOHNSTOWN	28	MARTINSBURG, WVA 79 MILES
	STATE COLLEGE	59	NONE
VA	BLACKSBURG	43	BLUEFIELD, VA 45 MILES
	BLUEFIELD	63	GRUNDY, VA 56 MILES
	BRISTOL	28	NONE
	COURTLAND	52	RICHMOND, VA 62 MILES
	DANVILLE	56	GREENSBORO, NC 48 MILES
	FARMVILLE	31	PETERSBURG, VA 46 MILES
	LYNCHBURG	54	NONE
	NORFOLK-PORTSMOUTH	55	RICHMOND, VA 75 MILES
	ONANCOCK	25	SALISBURY, MD 55 MILES
	WEST POINT	46	RICHMOND, VA 37 MILES
OH	COLUMBUS	56	LIMA, OH 79 MILES
	HILLSBORO	24	NEWARK, OH 82 MILES
	LIMA	57	DAYTON, OH 70 MILES
	SPRINGFIELD	66	RICHMOND, IND 53 MILES
	STEUENVILLE	62	WHEELING, WVA 22 MILES
	YOUNGSTOWN	58	AKRON, OH 49 MILES
	MANSFIELD	47	NONE
	NEWARK	31	NONE
WVA	CHARLESTON	49	PORTSMOUTH, OH 82 MILES
	MARTINSBURG	44	BALTIMORE, MD 71 MILES
	WEIRTON	50	JOHNSTOWN, PA 85 MILES
	WHEELING	41	CANTON, OH 61 MILES
	WILLIAMSON	31	OAK HILL, WVA 65 MILES
	KEYSER	30	NONE
	PARKERSBURG	57	NONE

Certificate of Service

I, Paula Lust, hereby certify that on this 16th day of November, 1992, I served a true copy of the foregoing **Comments of Association of America's Public Television Stations, Corporation for Public Broadcasting, and Public Broadcasting Service on Second Further Notice of Proposed Rulemaking** by hand delivery to:

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